

INTERNATIONAL SEARCH REPORT

International Application No
PCT/EP2004/009560

A. CLASSIFICATION OF SUBJECT MATTER IPC 7 A23D7/005 A23C9/15 A23D7/02 A23C13/14		
According to International Patent Classification (IPC) or to both national classification and IPC		
B. FIELDS SEARCHED Minimum documentation searched (classification system followed by classification symbols) IPC 7 A23D A23C		
Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched		
Electronic data base consulted during the international search (name of data base and, where practical, search terms used) EPO-Internal, WPI Data, PAJ		
C. DOCUMENTS CONSIDERED TO BE RELEVANT		
Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP 0 603 981 A (VER COOP MELKIND) 29 June 1994 (1994-06-29) cited in the application	1-6,9-11
Y	page 2, line 56 - page 3, line 50; claim 1; example 1; table 4	7,8
X	----- EP 1 201 134 A (KRAFT FOODS HOLDINGS INC) 2 May 2002 (2002-05-02) cited in the application	1-6,9-11
Y	page 3, line 1 - line 15; claims 1,2,9; figure 1 page 3, line 55 - line 58	7,8
Y	----- EP 0 560 429 A (UNILEVER PLC ; UNILEVER NV (NL)) 15 September 1993 (1993-09-15) claims 1,4,5,7	7,8
-/--		
<div style="display: flex; justify-content: space-between;"> <input checked="" type="checkbox"/> Further documents are listed in the continuation of box C. <input checked="" type="checkbox"/> Patent family members are listed in annex. </div>		
<div style="display: flex;"> <div style="flex: 1;"> <p>* Special categories of cited documents :</p> <p>*A* document defining the general state of the art which is not considered to be of particular relevance</p> <p>*B* earlier document but published on or after the international filing date</p> <p>*C* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)</p> <p>*O* document referring to an oral disclosure, use, exhibition or other means</p> <p>*P* document published prior to the international filing date but later than the priority date claimed</p> </div> <div style="flex: 1;"> <p>*T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention</p> <p>*X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone</p> <p>*Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.</p> <p>*Z* document member of the same patent family</p> </div> </div>		
Date of the actual completion of the international search	Date of mailing of the international search report	
13 October 2004	22/10/2004	
Name and mailing address of the ISA European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Authorized officer: Smeets, D	

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C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	DE 39 07 676 A (KRAFT EUROP R & D INC) 22 November 1990 (1990-11-22) cited in the application column 1, line 43 - column 2, line 6 column 4, line 1 - line 14	10
X	WO 97/08956 A (UNILEVER PLC ;UNILEVER NV (NL)) 13 March 1997 (1997-03-13) cited in the application page 7, line 12 - line 30; claim 1; examples	10
X	WO 03/043430 A (FOSTER TIMOTHY JOHN ;LUNDIN LEIF ORJAN (GB); UNILEVER PLC (GB); LE) 30 May 2003 (2003-05-30) cited in the application page 9, paragraph 2; claims; examples	10
A	US 5 698 254 A (CAMPBELL IAIN JAMES ET AL) 16 December 1997 (1997-12-16) column 4, line 20 - line 45; examples	1-11

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No
PCT/EP2004/009560

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
EP 0603981	A	29-06-1994	NL 9202245 A	18-07-1994
			DE 69305312 D1	14-11-1996
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			AU 723622 B2	31-08-2000
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			DE 69616572 T2	04-07-2002
			DK 848590 T3	27-12-2001
			WO 9708956 A1	13-03-1997
			EP 0848590 A1	24-06-1998
			JP 11511978 T	19-10-1999
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			WO 03043430 A1	30-05-2003
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			CA 2154085 A1	21-07-1994
			DE 69400575 D1	24-10-1996
			DE 69400575 T2	20-02-1997
			WO 9415477 A1	21-07-1994
			EP 0679059 A1	02-11-1995
			ES 2092889 T3	01-12-1996
			JP 8505287 T	11-06-1996
			KR 184645 B1	20-03-1999
			ZA 9400159 A	11-07-1995

PATENT COOPERATION TREATY

PCT


INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D. 03 MAR 2006

WIP PCT

Applicant's or agent's file reference		FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/009560		International filing date (day/month/year) 26.08.2004	Priority date (day/month/year) 10.10.2003
International Patent Classification (IPC) or national classification and IPC A23D7/005, A23C9/15, A23D7/02, A23C13/14			
Applicant UNILEVER N.V.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 04.12.2004		Date of completion of this report 02.03.2006	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Smeets, D Telephone No. +49 89 2399-	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/009560

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-20 as originally filed

Claims, Numbers

1-11 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
 4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/009560

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	7,8
	No: Claims	1-6,9-11
Inventive step (IS)	Yes: Claims	
	No: Claims	1-11
Industrial applicability (IA)	Yes: Claims	1-11
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V.

1. The following documents are referred to in this communication:

D1: EP-A-0 603 981 (VER COOP MELKIND) 29 June 1994 (1994-06-29)
D2: EP-A-1 201 134 (KRAFT FOODS HOLDINGS INC) 2 May 2002 (2002-05-02)
D3: EP-A-0 560 429 (UNILEVER PLC ; UNILEVER NV (NL)) 15 September 1993 (1993-09-15)
D4: DE 39 07 676 A (KRAFT EUROP R & D INC) 22 November 1990 (1990-11-22)
D5: WO 97/08956 A (UNILEVER PLC ; UNILEVER NV (NL)) 13 March 1997 (1997-03-13)
D6: WO 03/043430 A (FOSTER TIMOTHY JOHN ; LUNDIN LEIF ORJAN (GB); UNILEVER PLC (GB); LE) 30 May 2003 (2003-05-30)

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-6, 9-11 is not new in the sense of Article 33(2) PCT.

2.1 First, it is pointed out that the expression "partly crystalline" used in claims 1-11 is vague (Art. 6 PCT) and extends the scope of said claims in an unclear way. Any fat (e.g. milk fat) can have a "partly crystalline" state at a temperature below 60°C.

Thus, the feature "partly crystalline" is not a limiting product feature and is therefore not taken into consideration for assessing novelty and inventive step.

2.2 D1 (page 2, lines 56 - page 3, line 50; claim 1; example 1; table 4) and D2 (page 3, lines 1-15; claims 1,2,9; figure 1, page 3, lines 55-58) anticipate the subject-matter of claims 1-6, 9-11 on file. Moreover, the SFC profile of butter corresponds to the values as described on page 6, paragraph 3 of the description. Vegetable fats or mixtures of vegetable fats are also described in D1 and D2.

2.3 The process of claim 1 does not imply distinguishing product features on the product (see also the PCT Guidelines A5.26). Therefore, D4-D6 also anticipate the subject-matter of claim 10.

3. The present application does not meet the criteria of Article 33(1) PCT, because

the subject-matter of claims 7,8 does not involve an inventive step in the sense of Article 33(3) PCT.

3.1 The objective technical problem underlying the subject-matter of claims 7 and 8 is an alternative fat blend for preparing water continuous acidified emulsions.

3.2 D1 and D2 describe compositions according to claim 1 on file and teach that any vegetable fat blend can be successfully incorporated in the water continuous acidified emulsions.

Incorporating fat blends according to claims 7 and 8 in water-continuous emulsions is known, see, e.g. D3 (claims 1,4,5,7).

The features of claims 7 and 8 are merely a listing of several straightforward possibilities (hardened palm kernel oil, hardened coconut oil) from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill.

4. The applicant is also requested to deal with the following objections:

4.1 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D3 is not mentioned in the description, nor is this document identified therein.

4.2 The abbreviations in claim 7 should be fully explained in the claim (Art. 6 PCT).

4.3 The category of claim 11 (product or process) is unclear (Art. 6 PCT)